

Introduced by Committee on Environmental Quality (Senators Hill (Chair), Corbett, Fuller, Gaines, Hancock, Jackson, Leno, and Pavley)

February 24, 2014

An act to amend Sections 25123.3 and 25196 of, to add Sections 25150.65 and 25227 to, and to repeal Section 25150.6 of, the Health and Safety Code, relating to hazardous wastes and substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1458, as introduced, Committee on Environmental Quality. Hazardous waste: substances: land use: response actions.

(1) Existing law establishes various standards for management and control of hazardous waste, and authorizes the Department of Toxic Substances Control to exempt, by regulations adopted until January 1, 2008, a hazardous waste management activity from certain statutory requirements related to hazardous waste management if specified conditions for exemption are met. A violation of the hazardous waste control laws is a crime.

This bill would repeal the provisions that authorized, until January 1, 2008, the department to exempt hazardous waste management activities from those standards but would provide that those exceptions adopted prior to that date shall remain valid, unless repealed.

(2) Chapter 39 of the Statutes of 2012, effective June 27, 2012, authorizes a person to apply to the department for a written variance from a land use restriction imposed by the department on a hazardous waste property if certain requirements are met, including providing a statement containing specified information supporting the grant of a variance, and repealed a provision that prohibited certain uses of land

that is hazardous waste property without a specific variance approved in writing by the department for the land use and land in question.

This bill would enact a prohibition similar to the one repealed against taking certain specified actions on land that is subject to a recorded land use restriction, unless a person obtains a specific approval in writing from the department for the land use on the land in question. The bill would make conforming changes with regard to this requirement. Since a violation of the bill's prohibition would be crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25123.3 of the Health and Safety Code
2 is amended to read:

3 25123.3. (a) For purposes of this section, the following terms
4 have the following meaning:

5 (1) "Liquid hazardous waste" means a hazardous waste that
6 meets the definition of free liquids, as specified in Section 66260.10
7 of Title 22 of the California Code of Regulations, as that section
8 read on January 1, 1994.

9 (2) "Remediation waste staging" means the temporary
10 accumulation of non-RCRA contaminated soil that is generated
11 and held onsite, and that is accumulated for the purpose of onsite
12 treatment pursuant to a certified, authorized or permitted treatment
13 method, such as a transportable treatment unit, if all of the
14 following requirements are met:

15 (A) The hazardous waste being accumulated does not contain
16 free liquids.

17 (B) The hazardous waste is accumulated on an impermeable
18 surface, such as high density polyethylene (HDPE) of at least 20
19 mills that is supported by a foundation, or high density
20 polyethylene of at least 60 mills that is not supported by a
21 foundation.

1 (C) The generator provides controls for windblown dispersion
2 and precipitation runoff and run-on and complies with any
3 stormwater permit requirements issued by a regional water quality
4 control board.

5 (D) The generator has the accumulation site inspected weekly
6 and after storms to ensure that the controls for windblown
7 dispersion and precipitation runoff and run-on are functioning
8 properly.

9 (E) The staging area is certified by a registered engineer for
10 compliance with the standards specified in subparagraphs (A) to
11 (D), inclusive.

12 (3) “Transfer facility” means any offsite facility that is related
13 to the transportation of hazardous waste, including, but not limited
14 to, loading docks, parking areas, storage areas, and other similar
15 areas where shipments of hazardous waste are held during the
16 normal course of transportation.

17 (b) “Storage facility” means a hazardous waste facility at which
18 the hazardous waste meets any of the following requirements:

19 (1) The hazardous waste is held for greater than 90 days at an
20 onsite facility. The department may establish criteria and
21 procedures to extend that 90-day period, consistent with the federal
22 act, and to prescribe the manner in which the hazardous waste may
23 be held if not otherwise prescribed by statute.

24 (2) The hazardous waste is held for any period of time at an
25 offsite facility ~~which~~ *that* is not a transfer facility.

26 (3) (A) Except as provided in subparagraph (B), the waste is
27 held at a transfer facility and any one of the following apply:

28 (i) The transfer facility is located in an area zoned residential
29 by the local planning authority.

30 (ii) The transfer facility commences initial operations on or after
31 January 1, 2005, at a site located within 500 feet of a structure
32 identified in ~~subparagraphs (A) to (E), inclusive, of paragraph (1)~~
33 *paragraphs (1) to (5), inclusive, of subdivision (b) (c) of Section*
34 ~~25232~~ 25227.

35 (iii) The hazardous waste is held for a period greater than six
36 days at a transfer facility located in an area that is not zoned
37 industrial or agricultural by the local planning authority.

38 (iv) The hazardous waste is held for a period greater than 10
39 days at a transfer facility located in an area zoned industrial or
40 agricultural by the local planning authority.

(v) The hazardous waste is held for a period greater than six days at a transfer facility that commenced initial operations before January 1, 2005, is located in an area zoned agricultural by the local planning authority, and is located within 500 feet of a structure identified in ~~subparagraphs (A) to (E), inclusive, of paragraph (1) paragraphs (1) to (5), inclusive, of subdivision (b) (c) of Section 25232~~ 25227.

(B) (i) Notwithstanding subparagraph (A), a transfer facility located in an area that is not zoned residential by the local planning authority is not a storage facility, if the only hazardous waste held at the transfer facility is hazardous waste that is generated as a result of an emergency release and that hazardous waste is collected and temporarily stored by emergency rescue personnel, as defined in Section 25501, or by a response action contractor upon the request of emergency rescue personnel or the response action contractor, and the holding of that hazardous waste is approved by the department.

(ii) For purposes of this subparagraph, “response action contractor” means any person who enters into a contract with the department to take removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) in response to a release or threatened release, including any subcontractors of the response action contractor.

(4) (A) Except as provided in subparagraph (B), the hazardous waste is held onsite for any period of time, unless the hazardous waste is held in a container, tank, drip pad, or containment building pursuant to regulations adopted by the department.

(B) Notwithstanding subparagraph (A), a generator that accumulates hazardous waste generated and held onsite for 90 days or less for offsite transportation is not a storage facility if all of the following requirements are met:

(i) The waste is non-RCRA contaminated soil.

(ii) The hazardous waste being accumulated does not contain free liquids.

(iii) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mills that is supported by a foundation, or high density polyethylene of at least 60 mills that is not supported by a foundation.

1 (iv) The generator provides controls for windblown dispersion
2 and precipitation runoff and run-on and complies with any
3 stormwater permit requirements issued by a regional water quality
4 control board.

5 (v) The generator has the accumulation site inspected weekly
6 and after storms to ensure that the controls for windblown
7 dispersion and precipitation runoff and run-on are functioning
8 properly.

9 (vi) The generator, after final offsite transportation, inspects the
10 accumulation site for contamination and remediates as necessary.

11 (vii) The site is certified by a registered engineer for compliance
12 with the standards specified in clauses (i) to (vi), inclusive.

13 (5) The hazardous waste is held at a transfer facility at any
14 location for any period of time in a manner other than in a
15 container.

16 (6) The hazardous waste is held at a transfer facility at any
17 location for any period of time and handling occurs. For purposes
18 of this paragraph, “handling” does not include the transfer of
19 packaged or containerized hazardous waste from one vehicle to
20 another.

21 (c) The time period for calculating the 90-day period for
22 purposes of paragraph (1) of subdivision (b), or the 180-day or
23 270-day period for purposes of subdivision (h), begins when the
24 facility has accumulated 100 kilograms of hazardous waste or one
25 kilogram of extremely hazardous waste or acutely hazardous waste.
26 However, if the facility generates more than 100 kilograms of
27 hazardous waste or one kilogram of extremely hazardous waste
28 or acutely hazardous waste during any calendar month, the time
29 period begins when any amount of hazardous waste first begins
30 to accumulate in that month.

31 (d) Notwithstanding paragraph (1) of subdivision (b), a generator
32 of hazardous waste that accumulates waste onsite is not a storage
33 facility if all of the following requirements are met:

34 (1) The generator accumulates a maximum of 55 gallons of
35 hazardous waste, one quart of acutely hazardous waste, or one
36 quart of extremely hazardous waste at an initial accumulation point
37 that is at or near the area where the waste is generated and that is
38 under the control of the operator of the process generating the
39 waste.

1 (2) The generator accumulates the waste in containers other
2 than tanks.

3 (3) The generator does not hold the hazardous waste onsite
4 without a hazardous waste facilities permit or other grant of
5 authorization for a period of time longer than the shorter of the
6 following time periods:

7 (A) One year from the initial date of accumulation.

8 (B) Ninety days, or if subdivision (h) is applicable, 180 or 270
9 days, from the date that the quantity limitation specified in
10 paragraph (1) is reached.

11 (4) The generator labels any container used for the accumulation
12 of hazardous waste with the initial date of accumulation and with
13 the words “hazardous waste” or other words that identify the
14 contents of the container.

15 (5) Within three days of reaching any applicable quantity
16 limitation specified in paragraph (1), the generator labels the
17 container holding the accumulated hazardous waste with the date
18 the quantity limitation was reached and either transports the waste
19 offsite or holds the waste onsite and complies with either the
20 regulations adopted by the department establishing requirements
21 for generators subject to the time limit specified in paragraph (1)
22 of subdivision (b) or the requirements specified in paragraph (1)
23 of subdivision (h), whichever requirements are applicable.

24 (6) The generator complies with regulations adopted by the
25 department pertaining to the use and management of containers
26 and any other regulations adopted by the department to implement
27 this subdivision.

28 (e) (1) Notwithstanding paragraphs (1) and (4) of subdivision
29 (b), hazardous waste held for remediation waste staging shall not
30 be considered to be held at a hazardous waste storage facility if
31 the total accumulation period is one year or less from the date of
32 the initial placing of hazardous waste by the generator at the staging
33 site for onsite remediation, except that the department may grant
34 one six-month extension, upon a showing of reasonable cause by
35 the generator.

36 (2) (A) The generator shall submit a notification of plans to
37 store and treat hazardous waste onsite pursuant to paragraph (2)
38 of subdivision (a), in person or by certified mail, with return receipt
39 requested, to the department and to one of the following:

1 (i) The CUPA, if the generator is under the jurisdiction of a
2 CUPA.

3 (ii) If the generator is not under the jurisdiction of a CUPA, the
4 notification shall be submitted to the agency authorized, pursuant
5 to subdivision (f) of Section 25404.3, to implement and enforce
6 the requirements of this chapter listed in paragraph (1) of
7 subdivision (c) of Section 25404.

8 (B) If, after the notification pursuant to subparagraph (A), or
9 during the initial year or the six-month extension granted by the
10 department, the generator determines that treatment cannot be
11 accomplished for all, or part of, the hazardous waste accumulated
12 in a remediation waste staging area, the generator shall immediately
13 notify the department and the appropriate local agency, pursuant
14 to subparagraph (A), that the treatment has been discontinued. The
15 generator shall then handle and dispose of the hazardous waste in
16 accordance with paragraph (4) of subdivision (b).

17 (C) A generator shall not hold hazardous waste for remediation
18 waste staging unless the generator can show, through laboratory
19 testing, bench scale testing, or other documentation, that soil held
20 for remediation waste staging is potentially treatable. Any fines
21 and penalties imposed for a violation of this subparagraph may be
22 imposed beginning with the 91st day that the hazardous waste was
23 initially accumulated.

24 (3) Once an onsite treatment operation is completed on
25 hazardous waste held pursuant to paragraph (1), the generator shall
26 inspect the staging area for contamination and remediate as
27 necessary.

28 (f) Notwithstanding any other provision of this chapter,
29 remediation waste staging and the holding of non-RCRA
30 contaminated soil for offsite transportation in accordance with
31 paragraph (4) of subdivision (b) shall not be considered to be
32 disposal or land disposal of hazardous waste.

33 (g) A generator who holds hazardous waste for remediation
34 waste staging pursuant to paragraph (2) of subdivision (a) or who
35 holds hazardous waste onsite for offsite transportation pursuant to
36 paragraph (4) of subdivision (b) shall maintain records onsite that
37 demonstrate compliance with this section related to storing
38 hazardous waste for remediation waste staging or related to holding
39 hazardous waste onsite for offsite transportation, as applicable.
40 The records maintained pursuant to this subdivision shall be

1 available for review by ~~any~~ a public agency authorized pursuant
2 to Section 25180 or 25185.

3 (h) (1) Notwithstanding paragraph (1) of subdivision (b), a
4 generator of less than 1,000 kilograms of hazardous waste in any
5 calendar month who accumulates hazardous waste onsite for 180
6 days or less, or 270 days or less if the generator transports the
7 generator's own waste, or offers the generator's waste for
8 transportation, over a distance of 200 miles or more, for offsite
9 treatment, storage, or disposal, is not a storage facility if all of the
10 following apply:

11 (A) The quantity of hazardous waste accumulated onsite never
12 exceeds 6,000 kilograms.

13 (B) The generator complies with the requirements of
14 subdivisions (d), (e), and (f) of Section 262.34 of Title 40 of the
15 Code of Federal Regulations.

16 (C) The generator does not hold acutely hazardous waste or
17 extremely hazardous waste in an amount greater than one kilogram
18 for a time period longer than that specified in paragraph (1) of
19 subdivision (b).

20 (2) A generator meeting the requirements of paragraph (1) who
21 does not receive a copy of the manifest with the handwritten
22 signature of the owner or operator of the facility to which the
23 generator's waste is submitted, within 60 days from the date that
24 the hazardous waste was accepted by the initial transporter, shall
25 submit to the department a legible copy of the manifest, with some
26 indication that the generator has not received confirmation of
27 delivery.

28 (i) The department may adopt regulations that set forth
29 additional restrictions and enforceable management standards that
30 protect human health and the environment and that apply to persons
31 holding hazardous waste at a transfer facility. A regulation adopted
32 pursuant to this subdivision shall be considered by the Office of
33 Administrative Law to be necessary for the immediate preservation
34 of the public peace, health and safety, and general welfare, and
35 may be adopted as an emergency regulation in accordance with
36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
37 3 of Title 2 of the Government Code.

38 SEC. 2. Section 25150.6 of the Health and Safety Code is
39 repealed.

1 ~~25150.6.—(a) Except as provided in subdivisions (e) and (f);~~
2 ~~the department, by regulation, may exempt a hazardous waste~~
3 ~~management activity from one or more of the requirements of this~~
4 ~~chapter, if the department does all of the following:~~

5 ~~(1) Prepares an analysis of the hazardous waste management~~
6 ~~activity to which the exemption will apply pursuant to subdivision~~
7 ~~(b). The department shall first prepare the analysis as a preliminary~~
8 ~~analysis and make it available to the public at the same time that~~
9 ~~the department gives notice, pursuant to Section 11346.4 of the~~
10 ~~Government Code, that it proposes to adopt a regulation exempting~~
11 ~~the hazardous waste management activity from one or more of the~~
12 ~~requirements of this chapter. The department shall include, in the~~
13 ~~notice, a reference that the department has prepared a preliminary~~
14 ~~analysis and a statement concerning where a copy of the~~
15 ~~preliminary analysis can be obtained. The information in the~~
16 ~~preliminary analysis shall be updated and the department shall~~
17 ~~make the analysis available to the public as a final analysis not~~
18 ~~less than 10 working days prior to the date that the regulation is~~
19 ~~adopted.~~

20 ~~(2) Demonstrates that one of the conclusions required by~~
21 ~~subdivision (e) is valid.~~

22 ~~(3) Imposes, as may be necessary, conditions and limitations~~
23 ~~on the exemption that ensure that the exempted activity will not~~
24 ~~pose a significant potential hazard to human health or safety or to~~
25 ~~the environment.~~

26 ~~(b) Before the department gives notice of a proposal to adopt a~~
27 ~~regulation exempting a hazardous waste management activity from~~
28 ~~one or more of the requirements of this chapter pursuant to~~
29 ~~subdivision (a), and before the department adopts the regulation,~~
30 ~~the department shall evaluate the hazardous waste management~~
31 ~~activity and prepare, as required by paragraph (1) of subdivision~~
32 ~~(a), an analysis that addresses all of the following aspects of the~~
33 ~~activity, to the extent that the requirement or requirements from~~
34 ~~which the activity will be exempted can affect these aspects of the~~
35 ~~activity:~~

36 ~~(1) The types of hazardous waste streams and the estimated~~
37 ~~amounts of hazardous waste that are managed as part of the activity~~
38 ~~and the hazards to human health or safety or to the environment~~
39 ~~posed by reasonably foreseeable mismanagement of those~~
40 ~~hazardous wastes and their hazardous constituents. The estimate~~

1 of the amounts of hazardous waste that are managed as part of the
2 activity shall be based upon information reasonably available to
3 the department.

4 (2) The complexity of the activity, and the amount and
5 complexity of operator training, equipment installation and
6 maintenance, and monitoring that are required to ensure that the
7 activity is conducted in a manner that safely and effectively
8 manages the particular hazardous waste stream.

9 (3) The chemical or physical hazards that are associated with
10 the activity and the degree to which those hazards are similar to,
11 or differ from, the chemical or physical hazards that are associated
12 with the production processes that are carried out in the facilities
13 that produce the hazardous waste that is managed as part of the
14 activity.

15 (4) The types of accidents that might reasonably be foreseen to
16 occur during the management of particular types of hazardous
17 waste streams as part of the activity, the likely consequences of
18 those accidents, and the actual reasonably available accident history
19 associated with the activity.

20 (5) The types of locations at which the activity may be carried
21 out, an estimate of the number of these locations, and the types of
22 hazards that may be posed by proximity to the land uses described
23 in subdivision (b) of Section 25232. The estimate of the number
24 of locations at which the activity may be carried out shall be based
25 upon information reasonably available to the department.

26 (e) The department shall not give notice proposing the adoption
27 of, and the department may not adopt, a regulation pursuant to
28 subdivision (a) unless it first demonstrates, using the information
29 developed in the analysis prepared pursuant to subdivision (b),
30 that one of the following is valid:

31 (1) The requirement from which the activity is exempted is not
32 significant or important in either of the following:

33 (A) Preventing or mitigating potential hazards to human health
34 or safety or to the environment posed by the activity.

35 (B) Ensuring that the activity is conducted in compliance with
36 other applicable requirements of this chapter and the regulations
37 adopted pursuant to this chapter.

38 (2) A requirement is imposed and enforced by another public
39 agency that provides protection of human health and safety and
40 the environment that is as effective as, and equivalent to, the

1 protection provided by the requirement, or requirements, from
2 which the activity is being exempted.

3 ~~(3) Conditions or limitations imposed on the exemption will~~
4 ~~provide protection of human health and safety and the environment~~
5 ~~equivalent to the requirement, or requirements, from which the~~
6 ~~activity is exempted.~~

7 ~~(4) Conditions or limitations imposed on the exemption~~
8 ~~accomplish the same regulatory purpose as the requirement, or~~
9 ~~requirements, from which the activity is being exempted but at~~
10 ~~less cost or greater administrative convenience and without~~
11 ~~increasing potential risks to human health or safety or to the~~
12 ~~environment.~~

13 ~~(d) A regulation adopted pursuant to this section shall not be~~
14 ~~deemed to meet the standard of necessity, pursuant to Section~~
15 ~~11349.1 of the Government Code, unless the department has~~
16 ~~complied with subdivisions (b) and (c).~~

17 ~~(e) The department shall not exempt a hazardous waste~~
18 ~~management activity from a requirement of this chapter or the~~
19 ~~regulations adopted by the department if the requirement is also a~~
20 ~~requirement for that activity under the federal act.~~

21 ~~(f) (1) On and after January 1, 2002, the department may, by~~
22 ~~regulation, exempt a hazardous waste management activity from~~
23 ~~one or more of the requirements of this chapter pursuant to this~~
24 ~~section only if the regulations govern the management of one of~~
25 ~~the hazardous wastes listed in subparagraphs (A) to (E), inclusive,~~
26 ~~of paragraph (2), the regulations identify the hazardous waste as~~
27 ~~a universal waste, and the regulations amend the standards for~~
28 ~~universal waste management set forth in Chapter 23 (commencing~~
29 ~~with Section 66273.1) of Division 4.5 of Title 22 of the California~~
30 ~~Code of Regulations.~~

31 ~~(2) The regulations that the department may adopt pursuant to~~
32 ~~paragraph (1) shall govern only the following types of hazardous~~
33 ~~waste:~~

34 ~~(A) Electronic hazardous wastes, as the department may describe~~
35 ~~in the regulations adopted pursuant to this subdivision.~~

36 ~~(B) Hazardous waste batteries.~~

37 ~~(C) Hazardous wastes containing mercury.~~

38 ~~(D) Hazardous waste lamps.~~

39 ~~(E) Lead-based painted debris that is a hazardous waste.~~

1 ~~(g) The authority of the department to adopt regulations pursuant~~
2 ~~to this section shall remain in effect only until January 1, 2008,~~
3 ~~unless a later enacted statute, which is enacted before January 1,~~
4 ~~2008, deletes or extends that date. This subdivision does not~~
5 ~~invalidate any regulation adopted pursuant to this section prior to~~
6 ~~the expiration of the department's authority.~~

7 SEC. 3. Section 25150.65 is added to the Health and Safety
8 Code, to read:

9 25150.65. Any regulation that was adopted prior to January 1,
10 2008, pursuant to former Section 25150.6, exempting a hazardous
11 waste management activity from one or more of the requirements
12 of this chapter, shall remain valid unless repealed.

13 SEC. 4. Section 25196 of the Health and Safety Code is
14 amended to read:

15 25196. ~~Any~~ A person who knowingly violates a provision of
16 subdivision (a) of ~~former~~ Section 25221 ~~or subdivision (a) or (b)~~
17 ~~of as that section read on January 1, 2012, and who violated that~~
18 ~~provision prior to the effective date of Chapter 39 of the Statutes~~
19 ~~of 2012, or who knowingly violates Section 25232~~ 25227, shall be
20 subject to a civil penalty not to exceed 25 percent of the fair market
21 value of the land and improvements, 25 percent of the sale price
22 of the land and improvements, or fifty thousand dollars (\$50,000),
23 whichever has been established and is greatest.

24 SEC. 5. Section 25227 is added to the Health and Safety Code,
25 to read:

26 25227. A person shall not engage in any of the following on
27 land that is subject to a recorded land use restriction pursuant to
28 former Section 25229, 25230, or 25398.7, as those sections read
29 on January 1, 2012, or pursuant to Section 25202.5, 25221, or
30 25355.5, unless the person obtains a specific approval in writing
31 from the department for the land use on the land in question:

32 (a) A new use of the land, other than the use, modification, or
33 expansion of an existing industrial or manufacturing facility or
34 complex on land that is owned by, or held for the beneficial use
35 of, the facility or complex on or before January 1, 1981.

36 (b) Subdivision of the land, as that term is used in Division 2
37 (commencing with Section 66410) of Title 7 of the Government
38 Code, except that this subdivision does not prevent the division of
39 a parcel of land so as to divide that portion of the parcel that

1 contains hazardous materials, as defined in subdivision (d) of
2 Section 25260, from other portions of that parcel.

3 (c) Construction or placement of a building or structure on the
4 land that is intended for use as any of the following, or the new
5 use of an existing structure for the purpose of serving as any of
6 the following:

7 (1) (A) Except as provided in paragraph (B), a residence,
8 including a mobilehome or factory built housing constructed or
9 installed for use as permanently occupied human habitation.

10 (B) The addition of rooms or living space to an existing
11 single-family dwelling or other minor repairs or improvements to
12 residential property that do not change the use of the property,
13 increase the population density, or impair the effectiveness of a
14 response action, shall not constitute construction or placement of
15 a building or structure for the purposes of subparagraph (A).

16 (2) A hospital for humans.

17 (3) A school for persons under 21 years of age.

18 (4) A day care center for children.

19 (5) A permanently occupied human habitation, other than those
20 used for industrial purposes.

21 SEC. 6. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.